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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,937	03/30/2001	Franz Ott	NHL-SCT-22	7588

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EXAMINER

VINCENT, SEAN E

ART UNIT	PAPER NUMBER
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1731

8

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,937

Applicant(s)

OTT ET AL.

Examiner

Sean E Vincent

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. A range of "from 0 volume percent to 100 volume percent" is not limiting.
2. Claim 14 is objected to because of the following informalities: Claim 14 depends from claim 13, but the ranges and elements recited in claim 14 often do not fall within those of claim 13. Claim 14 should depend from claim 12.
3. Claim 19 is improper as a method of use claim depending from a method of making claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1-4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 1 recites the limitation "the interior of said body of glass" in lines 8-9. There is insufficient antecedent basis for this limitation in the claim.

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7. Claim 3 recites the limitation "the interior of said glass body" in 16-17. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 6 is indefinite because it appears to present two ranges, a broad range and a narrower, preferred range. While such presentation is normally considered definite, claim 6 is confusing because it uses language normally reserved for Markush groupings, i.e. "one of" and the two depths are separated by an "and" which would suggest that 1000nm and 2000nm are actually range endpoints. Clarification is required.
9. Claim 6 recites the limitation "the surface condition" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 15, 17, 18 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Terneu et al (US 5221352). The features of applicant's claimed apparatus can be found in the figures and col. 2, lines 5-49; col. 4, lines 57-60 and col. 5, lines 8-17 as well as the examples.
12. Claim 10 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Terneu et al. The features of applicant's claimed method can be found in the figures and col. 2, lines 5-49; col. 4, lines 57-60 and col. 5, lines 8-17 as well as the examples.

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13. Claim 16 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Morrill, Jr (US 3401028). The features of applicant's claimed apparatus can be found in the figures and col. 4, lines 63-73; col. 7, lines 47-65 and col. 8, lines 36-60. It is the position of the examiner that means for controlling gas pressures or rates would inherently control oxygen supply if the controlled gas was air.

14. Claims 3-5, 7-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Konoko et al (US 3937623). The features of applicant's claimed method can be found in the figures, col. 3, line 61 to col. 4, line 31 and claims 1-4 of Konoko et al. It is the position of the examiner that the claimed regulating method step reads on the controlling disclosed by Konoko et al for forming air and cooling gas supplies into the interior of drawn glass tubes.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

17. Claims 1, 2, 12-14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Konoko et al in view of Bienvenue et al (US 4319156).

18. Konoko et al did not disclose methods of making halogen lamps specifically. Filament insertion and halogen injection steps are very well known in the art as shown by Bienvenue et al (see figures and col. 6, lines 5-30). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to make halogen lamps from the tubes produced by Konoko et al using the finishing steps of Bienvenue et al because the tubes produced by Konoko et al would have been expected to be used in any of a multitude of different undisclosed finishing processes and Bienvenue et al taught that the halogen lamp finishing steps were well known.

19. Konoko et al did not teach glass types or compositions. Bienvenue et al disclosed that aluminosilicate glasses were well known to be used for the manufacture of halogen lamps (see col. 3, lines 9-30). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use known aluminosilicate glasses in the process of Konoko et al because Bienvenue et al taught that such glasses were well known in the art.

20. With regard to the composition ranges of claims 13 and 14, the selection of any particular proportion within the ranges taught by the reference(s) would appear to involve only routine testing well within the scope of the worker in the art, see *In re. Aller et al.*, 105 U.S.P.Q. 233, 42 C.C.P.A. 824. In this case, the claimed ranges are broad enough to read on many well known glasses including the specific glass disclosed in Bienvenue et al.

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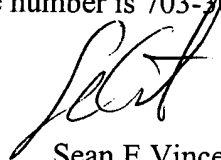
Allowable Subject Matter

21. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
22. The following is a statement of reasons for the indication of allowable subject matter:
- The prior art does not teach or fairly suggest processes as claimed wherein a surface condition is modified to a depth of 1000nm. It would not have been obvious to modify the surface conditions of the prior art glass products to 1000nm.

Conclusion

23. The prior art made of record and not relied upon is cited to further show the state of the art.
24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E Vincent whose telephone number is 703-305-3607. The examiner can normally be reached on M - F (8:30 - 6:00) Second Monday Off.
25. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.
26. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

S Vincent
May 19, 2003



Sean E Vincent
Primary Examiner
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